

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF DELAWARE

JUDY ENDERS/MADEN,)	
)	
Plaintiff,)	
v.)	C.A. No. 05-00669-SLR
)	
SUPER FRESH,)	
)	
Defendant.)	

DEFENDANT'S ANSWER AND AFFIRMATIVE DEFENSES

Defendant, Super Fresh Food Market, Inc. (incorrectly referred to in the *Pro Se* Complaint as "Super Fresh" and hereinafter "Defendant"), by its attorneys, answer the Complaint ("Complaint") of Plaintiff Judy Enders/Maden ("Plaintiff"), as follows:

1. Paragraph 1 of the Complaint contains Plaintiff's description of this action, to which no response is required. To the extent a response was required, Defendant denies that there is any basis in fact or law for the claims asserted.

2. Defendant lacks sufficient knowledge or information to admit or deny the allegation contained in Paragraph 2 of the Complaint.

3. Defendant denies the allegations as stated in Paragraph 3 of the Complaint, except admits that it has a store in New Castle, Delaware.

4. Defendant denies the allegations contained in Paragraph 4 of the Complaint.

5. Defendant denies the allegations contained in Paragraph 5 of the Complaint.

6. Defendant denies the allegations contained in Paragraph 6 of the Complaint.

7. Defendant denies the allegations contained in Paragraph 7 of the Complaint, except admits that Plaintiff filed an administrative charge.

8. Defendant denies the allegation contained in Paragraph 8 of the Complaint, except admits that Plaintiff filed a charge with the Equal Employment Opportunity Commission of the United States.

9. Defendant lacks sufficient knowledge or information to admit or deny the allegations contained in Paragraph 9 of the Complaint, except admits that the Equal Employment Opportunity Commission issued a Notice of Right to Sue letter dated June 27, 2005.

10. Defendant denies the allegations contained in Paragraph 10 of the Complaint.

11. Defendant denies the allegations contained in Paragraph 11 of the Complaint.

12. Paragraph 12 of the Complaint contains a statement, to which no response is required. To the extent a response was required, Defendant denies that there is any basis in fact or law for the claims asserted.

13. Defendant denies the allegations contained in Paragraph 13 of the Complaint.

14. Defendant denies the allegations contained in Paragraph 14 of the Complaint.

SEPARATE AND AFFIRMATIVE DEFENSES

FIRST DEFENSE

The Complaint, in whole or in part, fails to state a claim upon which relief may be granted.

SECOND DEFENSE

There is no legal or factual basis for the claims asserted against the Defendant.

THIRD DEFENSE

Plaintiff failed to act with reasonable care to take advantage of the preventive and corrective opportunities provided by Defendant regarding alleged unlawful workplace discrimination and/or harassment and to otherwise prevent harm that could have been avoided.

FOURTH DEFENSE

All actions undertaken with respect to Plaintiff were non-discriminatory, based on sound business judgment, neither arbitrary nor capricious and were undertaken in good faith and compliance with all applicable laws.

FIFTH DEFENSE

Upon information and belief, Plaintiff is barred from relief due to her failure to mitigate damages.

SIXTH DEFENSE

Plaintiff's claims are barred, in whole or in part, by her failure to exhaust administrative remedies.

SEVENTH DEFENSE

Plaintiff's claims are barred, in whole or in part, by the applicable statute of limitations.

WHEREFORE, Defendant respectfully requests that this Court enter a judgment:

1. Dismissing the Complaint, with prejudice;
2. Directing Plaintiff to pay Defendant for all costs, fees and disbursements, including reasonable attorneys' fees incurred in this proceeding with prejudgment interest; and
3. Awarding such other and further relief as this Court deems just and proper.

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Attorneys for Defendant Super Fresh Market, Inc.

DATED: March 3, 2006